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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,743	10/19/2001	Roland Bernard	Q66747	6128
7590 05/12/2005 SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC 2100 Pennsylvania Avenue, NW Washington, DC 20037-3213			EXAMINER RIVELL, JOHN A	
			ART UNIT 3753	PAPER NUMBER

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/981,743	<b>Applicant(s)</b> BERNARD ET AL.	
	<b>Examiner</b> John Rivell	<b>Art Unit</b> 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 2/14/05 (Req. for Recon.).
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-23 and 27 is/are rejected.
- 7) ☒ Claim(s) 24-26, 28 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Applicant's arguments filed February 14, 2005 concerning the combination of Reimer et al. in view of Curwen have been fully considered but they are not persuasive.

Claims 1-20 have been canceled. New claim 29 has been added. Thus claims 21-29 are pending.

The Terminal Disclaimer filed February 14, 2005 has been accepted.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reimer et al. in view of Curwen.

The European document to Reimer et al. discloses, in figure 2, an "apparatus for conditioning the atmosphere in a vacuum chamber (120), said apparatus comprising: a vacuum line (120, 182, 160, 185, 170a, 160, 175a, respectively) including said vacuum chamber (120) and comprising a pumping apparatus (high vacuum pump 160 or pre vacuum pump 165a); and isolation means (in general, i.e. the reduction of mechanical vibration as discloses at page 8, lines 27-28) enabling the disturbance caused by the pumping apparatus to the vacuum chamber to be reduced" as recited.

Thus Reimer et al. discloses all the claimed features with the exception of having the "isolation means" of equivalence to that disclosed in the instant application.

The patent to Curwen discloses that it is known in the art to employ, on a vibration generating machine such as a compressor (which is nothing more than a pump), an "isolation means" such as the outlet pipe 34 acting as a sensor to detect vibrations generated by the compressor, and a vibration generating element at weight 38 which generates vibrations, opposite in phase to vibrations generated by the pump, for the purpose of reducing or isolating the remainder of the system from vibrations generated by the pump. This "isolation means" is considered to be the "equivalents" necessitated by the means-plus-function language warranted by the recitation "isolation means" in the claims.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Reimer et al. a mechanical "isolation means" in the form of a weight attached to the conduits connected to the pump(s) to generate vibrations, opposite in phase, to the vibration generated by the pump therein for the purpose of isolation or reducing the transmission of vibration transmitted to the remainder of the system from the vibration generating mechanics such as the pump as recognized by Curwen.

Regarding claim 22, in Reimer et al., "the pumping apparatus (pre vacuum pump 165a) is disposed in the immediate vicinity of the vacuum chamber (120)" as recited.

Regarding claim 23, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Reimer et al. an enclosure about the pump 165a and to include within the enclosure an active vibration damping system for the purpose of protecting the pump and to actively reduce or eliminate vibration caused by the pump apparatus as recognized by Curwen.

Regarding claim 27, in Curwen, "the isolation means includes active vibration-compensating means (at weight 38) for compensating the mechanical vibrations generated by the contents (e.g. pump) of the isolation enclosure (12)" as recited.

Regarding applicants remarks as they may apply, the means-plus-function comments correctly point out the requirement of similar structure or their equivalents performing the same function. As it concerns the disclosure of Reimer et al. these arguments are persuasive. As it concerns Curwen these arguments are not persuasive. As recited in applicant's arguments, the scope of the means-plus-function language of the claim encompasses the "equivalent" structure performing the same function. As originally disclosed applicant sets forth no equivalent structure which would limit the scope of the means-plus-function language. Prosecution is thus left on its own to determine the "equivalent" structure performing the vibration isolation function required by the means-plus-function language.

As disclosed in Curwen, the outlet conduit is in effect a "sensor" detecting the vibrations generated by the pump or compressor within casing 12. The weight is in effect an "active" element, in that, it is there to generate, in opposite phase, vibrations to counter the effects of vibration originally generated by the pump. The net effect of the opposite phase vibrations is to preclude vibration in general from passing on through the piping to the rest of the system. While such an "isolation means" may be "clearly quite different from the isolation means of the present invention" as disclosed and claimed in, for example, claim 29, it is not believed to be patentably distinct from that which is claimed in claim 21 because of the scope afforded the "equivalent" necessitated by the means-plus-function language.

Claims 24, 25, 26, 28 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Rivell whose telephone number is (571) 272-4918. The examiner can normally be reached on Mon.-Thur. from 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (571) 272-4930. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
John Rivell  
Primary Examiner  
Art Unit 3753

j.r.